



# Suter-Wallauch-Corbett & Associates

Government Relations

May 11, 2009  
Agenda Item 6.1

May 1, 2009

TO: Dennis Fay, Executive Director  
Alameda County Congestion Management Agency

FR: Suter, Wallauch, Corbett & Associates

RE: Legislative Update

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**LAO Series:** The Legislative Analysts Office has released the next two installments of its analysis of the 2009-10 Budget, which was enacted in February. These reports provide an overview of the revenue sources in the budget and an overview of spending on health programs. Both reports can be found on the LAO's website at [www.lao.ca.gov](http://www.lao.ca.gov).

The revenue report evaluates the Governor's tax proposals and revenue sources. The LAO recommends that the 1.5 cent sales tax increase should be reduced because it gives the state highest rate in the nation. The report also outlines eliminating or reducing tax cuts and exemptions for a range of programs that would raise a little over \$5 billion in 2009-10 and in 2010-11. These include eliminating the agricultural diesel fuel tax exemption, eliminate enterprise zone subsidies, and employer provided parking deductions.

**Bond Sales:** California sold \$6.85 billion in bonds on Wednesday allowing the continuation of more than 5,000 stalled public works projects. \$5.23 billion of the bonds sold were "Build America Bonds," (BAB) authorized by Congress in February as part of the federal stimulus package. Under the BAB program, government agencies can issue taxable bonds for public works projects, and then get a 35 percent subsidy of their interest costs from the federal government. While taxable bonds pay a higher interest rate, the BAB subsidy results in the state paying less for these bonds than the tax free bonds sold last month. The bonds sold Wednesday carried a yield of 7.43 percent, while the state's cost after the federal subsidy will be only 4.83 percent.

That will save state taxpayers \$1.68 billion over the life of the 25- and 30-year bonds. BABs are free of state taxes, but are taxable at the federal level, allowing the feds will eventually recoup some of the subsidy. Under the federal law, states can sell an unlimited quantity of BABs through the end of 2010, but State Treasurer Lockyer said it was uncertain how much and how often California might do so. A list of the project to be funded with the April 2009 bond proceeds can be found at the following link:  
[http://www.dof.ca.gov/infrastructure/bond\\_funded\\_projects/](http://www.dof.ca.gov/infrastructure/bond_funded_projects/)

It was reported that this bond sale is sufficient to fund all projects that have been stalled since December. The "All Other Projects" list found at the above website lists thousands of Prop 1B and other bond programs including numerous projects in Alameda County.

Unfortunately, the list does not specify dollar amounts. In addition, the Governor's allocation proposal fails to allocate any of the bond proceeds for transit capital projects funded with Prop 1B bonds.

**Democrats & Ballot Props:** The Democratic convention was held in Sacramento this past weekend and considered the initiatives on the May 19<sup>th</sup> ballot. Ultimately, because of controversy surrounding the measures the delegates voted to support only the following three initiatives:

- Prop 1B which provides \$9.3 billion in new school funding, but only if Prop 1A also passes.
- Proposition 1C which allows the state to borrow up to \$5 billion against future lottery revenue.
- Proposition 1F which blocks salary raises for government officials in budget deficit years.

The party remained neutral on the other initiatives as they failed to receive the 60 percent vote for support:

- Prop 1A a proposed spending cap and rainy-day fund.
- Prop 1D which shifts money from funds for early childhood education.
- Prop 1E which shifts mental health care funding from the Mental Health Services Act.

You'll likely recall that the Executive Committee of the California Republican Party met earlier this month and voted to oppose all six measures reflecting their rejection of the budget deal crafted in February.

**Stimulus Oversight:** Governor Schwarzenegger has created a new position through executive order to oversee California's spending of over \$50 billion in federal stimulus dollars. Laura Chick assumes her position today as the state's first Inspector General. Chick has been L.A.'s city controller since 2001. She will bring a deputy from her current office to be her chief of staff but has no plans to hire additional new employees.

## LEGISLATION

May 1 is the deadline for policy committee to act on all bills with a fiscal impact. While rule waivers can and will be granted to allow a handful of fiscal bills to be heard after the deadline, the general rule is if a fiscal bill remains in a policy committee after May 1, it is considered a two-year bill. Two-year bills will likely be held in the committees until January of 2010.

Bill	Topic	Status	Client-Position
AB 468 (Hayashi) I-02/24/2009	Public Employees' Medical and Hospital Care Act: employer contributions.	04/02/2009-Read second time. To third reading. (04/02/2009-A THIRD READING)	ACTA-Sponsor CMA-Watch
	NOTE: AB 468 is sponsored by ACTIA and creates a specific vesting schedule and employer contribution amount for annuitant		

	<p>health care premiums for ACTIA employees hired on or after November 1, 2004.</p> <p>AB 468 was approved by the Assembly Retirement Committee and it is currently pending on the Assembly Floor.</p>		
AB 497 (Block) I-02/24/2009	Vehicles: high-occupancy vehicle lanes: used by physicians.	04/22/2009-Read second time. To third reading. (04/22/2009-A THIRD READING)	ACTIA-Watch CMA-Oppose
	<p>NOTE: This bill would allow a physician to use an HOV lane regardless of occupancy requirements when traveling to an emergency call if the car displays an insigne to be developed by the Department of Motor Vehicles.</p> <p>Although several members of the committee expressed concerns about enforcement of this bill, AB 497 was approved by the Assembly Transportation Committee.</p>		
AB 652 (Skinner) A-04/29/2009	Vehicles: vehicle length limitation.	04/29/2009-Read second time and amended. Ordered returned to second reading. (04/29/2009-A SECOND READING)	ACTA-Support CMA-Watch
	<p>NOTE: AB 652 was amended to apply only to AC Transit. As amended this bill creates a pilot program for AC Transit to test the use of bike racks that accommodate three bicycles. These larger capacity racks are 4 inches longer than existing bike racks, because of this added length both driver unions and the CHP have expressed concerns regarding the turning radius of the buses. AB 652 would require AC Transit report to the Legislature on its experience and if the added length causes any safety issues.</p>		
AB 670 (Berryhill, Bill) I-02/25/2009	Vehicles: high-occupancy vehicle lanes: veterans.	04/20/2009-In committee: Set first hearing. Failed passage. Reconsideration granted. (04/20/2009-A TRANS.)	ACTIA-Watch CMA-Oppose
	<p>NOTE: AB 670 failed passage in Assembly Transportation; however, the author was granted reconsideration.</p>		

	This bill would exempt from HOV occupancy restrictions any vehicle driven by a veteran or active duty member of the United States Armed Forces.		
AB 672 (Bass) A-04/21/2009	Transportation: bond-funded projects: letter of no prejudice.	04/27/2009-Do pass as amended, and re-refer to Committee on Appropriations with recommendation: To Consent Calendar. (04/27/2009-A CONSENT CALENDAR)	ACTIA-Watch CMA-Watch
	<p>NOTE: This bill would establish a process for local and regional agencies to apply for a Letter of No Prejudice (LONP) for any project using Prop 1B funds. If approved, the LNOP will serve to ensure the project sponsor will be reimbursed for expending its own funds for any bond-funded component of the project.</p> <p>Given the uncertainty of the state's budget and financial markets, Speaker Bass has introduced this measure to give local entities a means to deliver projects even if the bond funds are not available. However, the April 21 amendments raise some issues with how useful this measure would be. In order to apply for the LONP, the bill currently requires that the project component seeking the LONP has already been completed. Amendments are expected to address this confusing requirement.</p>		
AB 744 (Torrico) A-04/21/2009	Transportation: toll lanes: Express Lane Network.	04/28/2009-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 12. Noes 1.) (April 27). (04/28/2009-A APPR.)	ACTIA-Watch CMA-Support In Concept
	<p>NOTE: Republican Assemblywoman Connie Conway was the only "No" vote on AB 744 when it was heard by the Assembly Transportation Committee. This bill authorizes BATA to finance, construct and operate an express lane network in the Bay Area. AB 744 now moves to the Assembly Appropriations Committee.</p> <p>As amended on April 21, the bill establishes a framework for</p>		

	creating corridor working groups that will plan and develop HOT lanes within each area. While a Congestion Management Agency may reject a HOT lane project proposed by the working group, the ultimate decision maker on whether a HOT lane is built or not is BATA.		
AB 798 (Nava) I-02/26/2009	California Transportation Financing Authority: toll facilities.	04/29/2009-From APPR.: To APPR. SUSPENSE FILE. (04/29/2009-A APPR. SUSPENSE FILE)	ACTIA-Watch CMA-Support and Seek Amendments
	<p>NOTE: AB 798 was approved by the Assembly Transportation Committee and the Assembly Appropriations Committee has placed this bill on its Suspense File.</p> <p>This bill would create the California Transportation Financing Authority (CTFA). The purpose of the Authority is to establish a source for local agencies to publicly finance toll projects and other transportation projects.</p>		
AB 949 (Logue) I-02/26/2009	Transportation: State-Local Partnership Program.	04/27/2009-In committee: Set second hearing. Failed passage. Reconsideration granted. (04/28/2009-A TRANS.)	ACTIA-Oppose CMA-Oppose
	<p>NOTE: AB 949 failed passage in the Assembly Transportation Committee, but not before the author proposed amendments to narrow the scope of the bill. The bill was granted reconsideration and may be heard again.</p> <p>The amendments would allow Yuba County to receive a portion of the Prop 1B State and Local Partnership Program funds that are allocated by formula. The amendments would change the definition of eligible matching funds to include "voter approved mineral or resource extraction fees or taxes." Yuba County voters approved a tax based on the amount of gravel a truck carries from quarries located in Yuba County. The tax generates about \$1 million per year and the revenue is used to maintain local roads.</p>		

AB 1175 (Torlakson) A-04/14/2009	Toll facilities.	04/21/2009-From committee: Do pass, and re-refer to Com. on APPR. Re-referred. (Ayes 9. Noes 2.) (April 20). (04/21/2009-A APPR.)	ACTIA-Watch CMA-Watch
	<p>NOTE: AB 1175 was approved by the Assembly Transportation Committee on a party line vote. This bill adds the Antioch and Dumbarton bridges to the toll bridge seismic safety program. In addition, AB 1175 would authorize BATA to submit regional measures to increase tolls the voters.</p> <p>The regional measure must described the projects and programs to be funded, and the bill states the projects and programs shall consist of infrastructure projects, acquisition of transit vehicles, transit operating assistance, and other improvements that reduce congestion and improve travel options. The bill, however, does not specify how the expenditure plan would be developed.</p>		
AB 1321 (Eng) A-04/02/2009	Environment: The Advance Infrastructure Mitigation Program Act.	04/27/2009-Do pass as amended and be re-referred to the Committee on Appropriations. (04/28/2009-A APPR.)	ACTIA-Watch CMA-Watch
	<p>NOTE: AB 1321 would authorize the Natural Resources Agency (NRA) to develop a program to mitigate the impacts of infrastructure projects proposed by a public agency on a regional or statewide scale in advance of project approval.</p> <p>The bill would create the Advanced Infrastructure Mitigation Program under which NRA would develop “regional advance mitigation plans” (RAMP). The RAMP would be a plan that estimates the potential future compensatory mitigation requirements for one or more planned infrastructure projects and identifies mitigation projects, sites, or credits that would fulfill some or all of those requirements.</p> <p>This process would not replace CEQA, but it would essentially identify a mitigation plan for a project in advance of completing environmental review.</p>		

AB 1386 (Hayashi) A-04/22/2009	State highways.	04/23/2009-Re-referred to Com. on APPR. (04/23/2009-A APPR.)	ACTA-Support CMA-Support
	<p>NOTE: AB 1386 was approved by the Assembly Transportation Committee on a vote of 10-3. The bill is now pending in the Assembly Appropriations Committee.</p> <p>AB 1386 amends existing law to allow for the proceeds from the sale of state owned right-of-way along the proposed Route 238 corridor to be used for both state and local transportation improvements. Existing law limits the use of these funds to state facilities.</p> <p>The bill also includes language to relinquish portions of State Routes 92, 185, and 238 within the City of Hayward. Language is being incorporated into other amendments that would address the loss of state transportation funds that would result from relinquishing these highway sections.</p> <p>In addition, the bill amends both the Rt 238 and Rt 84 statutes to specify that the proceeds from the sale of property is deposited into a special account until it is used to implement the LATIP.</p>		
AB 1414 (Hill) A-04/02/2009	Transportation planning.	04/27/2009-In committee: Set, first hearing. Hearing canceled at the request of author. (04/13/2009-A TRANS.)	ACTA-Watch CMA-Watch
	<p>NOTE: AB 1414 is now a two-year bill. This means a vote will not be taken by the Assembly Transportation Committee until later this session and most likely not until January of 2010.</p> <p>AB 1414 makes several changes aimed at reforming the STIP programming process, including the following changes:</p> <ul style="list-style-type: none"> <li>• Extends the STIP programming period from 5 to 6 years.</li> <li>• County shares would be calculated during each STIP cycle, and other county share changes are proposed.</li> <li>• Clarifies the process that the CTC uses to accept or reject an RTIP.</li> <li>• Allows for bonding against county shares.</li> <li>• Clarifies the development of an allocation plan, which is</li> </ul>		

	<p>when STIP revenue falls short of estimates.</p> <ul style="list-style-type: none"> <li>Creates a “master” STIP which would include all projects funded through the STIP, TCRP, CMIA, TCIF, and other CTC administered programs.</li> </ul>		
AB 1500 (Lieu) A-04/29/2009	High-occupancy lanes: single occupancy vehicles: sunset date.	04/29/2009-Read second time and amended. (04/29/2009-A APPR.)	ACTIA-Watch CMA-Oppose
	<p>NOTE: As introduced, AB 1500 would extend the sunset date by 5 years from January 1, 2011 to January 1, 2016 on existing law that allows specified types hybrid and low emission vehicles to use an HOV lane regardless of the number of occupants.</p> <p>As approved by the Assembly Transportation Committee this bill would only extend the sunset date for electric and other alternative fueled vehicles, such as natural gas vehicles. The exemption for hybrid vehicles would sunset on January 1, 2011.</p>		
SB 165 (Lowenthal) A-04/14/2009	Transportation.	04/29/2009-From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 9. Noes 1.) Re-referred to Com. on APPR. (04/29/2009-S APPR.)	ACTIA-Watch CMA-Watch
	<p>NOTE: SB 165 was amended to include various clean-up provisions and non-controversial changes to transportation related laws.</p> <p>In particular, SB 165 includes a change to SB 791 (Corbett) from last year, which allowed the proceeds from the right-of-way along Route 84 to be used on local projects. The change specifies that the excess property sold shall only be “non-residential” parcels. This change was added to SB 165 at the request of Senator Corbett because it was too late to make this change in SB 791 last year.</p>		
SB 205 (Hancock) A-04/14/2009	Traffic congestion: motor vehicle registration fees.	04/28/2009-Read second time. To third reading. (04/28/2009-S THIRD READING)	ACTIA-Support CMA-Sponsor

	NOTE: SB 205 is moving along and it is currently on the Senate Floor. This bill would allow any county congestion management agency to place on the ballot a majority vote measure to impose up to a \$10 fee on each vehicle for the purpose of funding congestion mitigation and air quality programs		
SB 391 (Liu) A-04/23/2009	California Transportation Plan.	04/27/2009-Do pass as amended, and re-refer to the Committee on Appropriations (04/27/2009-S APPR.)	ACTA-Watch CMA-Watch
	NOTE: SB 391 requires Caltrans to update its state transportation plan by December 31, 2015 and every five years thereafter. This bill also requires that the plan to address how the state will meet the transportation infrastructure and mobility needs of California and attain air pollution standards required by federal and state law and achieve greenhouse gas (GHG) emissions reductions needed from the transportation sector.		
SB 406 (DeSaulnier) A-04/13/2009	Land use: environmental quality.	04/29/2009-From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 6. Noes 4.) (04/29/2009-S SECOND READING)	ACTIA-Watch CMA-Watch
	NOTE: SB 406 authorizes regions to impose a surcharge on vehicle registrations in order to fund regional land use planning activities. This bill also makes changes to the membership and duties of the Office of Planning and Research's Planning Advisory and Assistance Council. This bill was approved by both the Senate Transportation and the Senate Local Government Committees, and it is currently in Senate Appropriations.  The Planning Advisory and Assistance Council (PAAC) currently consist of representatives from cities, counties, and regional agencies that are appointed by the Director of the Governor's Office of Planning & Research. The PAAC assists OPR in the development State's Environmental Goals and Policies Report. SB 406 would significantly change the composition of the PAAC		

	<p>members and assign additional duties to the PAAC, such as coordinating regional blueprint plans.</p> <p>SB 406 also authorizes metropolitan planning organizations to impose up to a \$2 surcharge on each vehicle registered within the region. If the population exceeds 300,000 then all amounts above \$1 must be used for grants to cities and counties for planning and projects related to implementing a regional blueprint plan. In the Bay Area, the resolution imposing the surcharge must be adopted by both MTC and ABAG.</p>		
SB 425 (Simitian) A-04/16/2009	Personal and corporate income taxes: deductions: parking: credits: ridesharing expenses.	04/28/2009-Do pass as amended, and re-refer to the Committee on Environmental Quality. (04/29/2009-S E.Q.)	ACTIA-Watch CMA-Watch
	<p>NOTE: SB 425 has been amended to revise the parking cash out program by essentially shifting enforcement from the Air Resources Board to the Franchise Tax Board.</p> <p>Under this bill an employer subject to the requirements of the Parking Cash-out Program may not deduct the cost of providing parking subsidies from its gross income unless it is in compliance with the requirement. This bill also provides a tax credit to small businesses in an amount equal to 80 percent of costs incurred for qualified commute reduction expenditures. These commute reduction expenditures include a wide range of activities including monthly transit passes, vanpools, carpools, private bus service and the cost of facility improvements that encourage bicycling and alternative commute methods.</p>		
SB 526 (Ashburn) A-04/02/2009	Intercity rail: San Joaquin Corridor: Altamont Pass extension.	04/29/2009-From committee: Do pass, but first be re-referred to Com. on APPR. (Ayes 10. Noes 0.) Re-referred to Com. on APPR. (04/29/2009-S APPR.)	ACTIA-Watch CMA-Watch
	<p>NOTE: SB 526 was unanimously approved by the Senate Transportation Committee. This bill authorizes Caltrans to enter into negotiations with the freight railroads, Union Pacific (UP) and</p>		

	the Burlington Northern Santa Fe (BNSF), and the commuter railroads, ACE and Caltrain, to extend at least one San Joaquin train via Altamont Pass to San Francisco and to report to the Legislature by March 1, 2010 on the status of negotiations.		
SB 535 (Yee) A-04/02/2009	Vehicles: High-occupancy vehicle lanes.	04/29/2009-From committee: Do pass as amended, but first amend, and re-refer to Com. on APPR. (Ayes 7. Noes 0.) (04/29/2009-S SECOND READING)	ACTIA-Watch CMA-Oppose
	<p>NOTE: As introduced, SB 535 deletes the sunset date on existing law that allows exempts specified vehicles from HOV lanes occupancy requirements, but it retained language that would repeal the HOV lane exemption if federal law does not authorize these exemptions.</p> <p>As approved by the Senate Transportation Committee, SB 585 was amended to remove the sunset date on the HOV lane exemption for only the cleanest vehicles, such as zero emission vehicles and certain natural gas powered vehicles.</p> <p>However, this is placeholder language. The sponsor, General Motors, will be developing language to establish performance criteria to exempt lithium ion powered vehicles, such as the Volt, from HOV lane occupancy requirements.</p>		
SB 575 (Steinberg) A-04/15/2009	Local planning: transportation.	04/28/2009-Do pass as amended, and re-refer to the Committee on Appropriations. (04/29/2009-S APPR.)	ACTIA-Watch CMA-Watch
	<p>NOTE: SB 575 has been amended to include several clean-up provisions to SB 373 from last year. The bill currently contains the following changes:</p> <ul style="list-style-type: none"> <li>The exemption for transportation sales tax projects adopted prior to December 31, 2008 is clarified to state that the "internal consistency" requirement does not apply to projects funded solely by a local sales tax measure. (Self-</li> </ul>		

	<p>Help Counties have requested that the date be changed to December 31, 2010.)</p> <ul style="list-style-type: none"> <li>• The rezoning requirement under housing element law is extended by 1 year if the local government has completed rezoning sufficient to accommodate 75% of the units as opposed to sites for very low and low income housing.</li> <li>• Allows HCD to adjust the due dates for housing elements so that the deadline is 18 months after adoption of the region's RTP.</li> <li>• The bill also clarifies a provision of last year's SB 732 regarding the open meeting requirements applicable to the Strategic Growth Council.</li> </ul>		
SB 728 (Lowenthal) A-04/27/2009	Air pollution: parking cash-out program.	04/28/2009-Set for hearing May 4. (02/27/2009-S E.Q.)	ACTIA-Watch CMA-Watch
	<p>NOTE: SB 728 is another bill that attempts to add teeth to the Parking Cash-out Program. This bill would authorize the Air Resources Board to impose a civil penalty for violating this program, as well as authorize cities, counties, and air districts to adopt a local ordinance and penalty to ensure employers comply with the program.</p> <p>Under the Parking Cash-out Program any employer with 50 or more employees that are located in a non-attainment area must provide a parking cash out program if the employer provides a parking subsidy to employees.</p>		
SB 802 (Leno) I-02/27/2009	Public contracts: retention proceeds.	04/28/2009-Read second time. To third reading. (04/28/2009-S THIRD READING)	ACTIA-Watch CMA-Watch
	<p>NOTE: SB 801 is currently on the Senate Floor. This bill requires that contract retention proceeds not exceed five percent of the payment of all contracts entered into after January 1, 2010, between a public entity and an original contractor, between an original contractor and a subcontractor, and between all subcontractors.</p>		